

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

OP(C).No. 2706 of 2014 (O)

(EP.NO.70/2014 IN OS.NO.161/2013 OF SUB COURT, VADAKARA)

PETITIONER(S):

1. SIJIL CHALIL,
S/O KUNHIKANNAN, AGED 38 YEARS, CHALIL HOUSE,
P.O. MOILOTHARA, MARUTHONKARA, VATAKARA,
KOZHIKODE DT.
2. SIJIL CHALIL,
PROPRIETOR, CHALIL COCONUT PROCESSING UNIT,
MOILOTHARA P.O, MARUTHONKARA, VADAKARA,
KOZHIKODE DISTRICT -673 513

BY ADVS.SRI.U.P.BALAKRISHNAN
SRI.K.R.AVINASH (KUNNATH)

RESPONDENT :

THE CANARA BANK, THOTTILPALAM BRANCH,
REPRESENTED BY ITS PRINCIPAL OFFICER (BRANCH MANAGER),
KAVILUMPARA, VATAKARA, KOZHIKODE DT -673 513

BY ADV. SRI.PAULY MATHEW MURICKEN,SC,CANARA BANK

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

OP(C).No. 2706 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 TRUE COPY OF THE ORDER IN EP NO.70/2014 IN OS 161/2013 PASSED
BY THE SUB COURT, VADAKARA DATED 24-10-2014**

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

PA.TO JUDGE

sts

B. KEMAL PASHA, J.

.....
O.P.(C) No.2706 of 2014
.....

Dated this the 8th day of June, 2015

J U D G M E N T

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In execution of the decree in OS.161/2013, the petitioner was arrested and produced before the court below in EP.70/2014. When the petitioner was arrested and produced, the petitioner undertook before the court below that he would pay the decree amount on 24.10.2014 and consequently, he was released on kychit. On 24.10.2014, the petitioner did not turn up before the court below and did not care to pay the amount as undertaken and consequently, Ext.P1 order is passed by the court below on 24.10.2014 for issuance of arrest warrant against the petitioner.

2. Heard learned counsel for the petitioner and learned counsel for the respondent.

3. Learned counsel for the petitioner has argued that no sufficient opportunity to prove no means was given

to the petitioner and, therefore, Ext.P1 order is illegal. It seems that Ext.P1 order is not the original order, whereby the court below had decided to issue warrant against the petitioner. Earlier, in the proceedings under Order XXI Rule 37 of the Code of Civil Procedure, 1908, warrant was ordered against the petitioner. It seems that at that time, the said order was challenged by the petitioner. On the contrary, when the petitioner was arrested and produced before the court below, he had undertaken to pay the amount in the warrant on 24.10.2014. On 24.10.2014, the petitioner had neither turned up, nor paid the amount. The court below is perfectly justified in issuing Ext.P1 order. I do not find any illegality, irregularity or jurisdictional error in Ext.P1 order.

In the result, this OP(Civil) is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/08/06

// True Copy //

PA to Judge